Supreme Court, U.S.
FILED
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OFFICE OF THE CLERK

No.

IN THE

SUPREME COURT OF THE UNITED STATES

Alicja Matczak, et al.,

Petitioners,

v.

J.J. Dahl, et al.,

Respondents.

On Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The Eleventh Circuit

PETITION FOR A WRIT OF CERTIORARI

Alicja Matczak & Tadeusz Bohdziun
4725-B Coquina Key Drive S.E.
Saint Petersburg, Fl 33705
Tel. (727) 896-2106

Pro Se Petitioners

THE QUESTIONS PRESENTED

1. Whether denying by U.S. Court Of Appeals For The Eleventh Circuit petitioners "Motion to Determine Appealability of the Last Order Filed and Entered in the District Court on May 16, 2000." abridged petitioners right "to petition the Government for a redress of grievances." as provided by the First Amendment to the U.S. Constitution and denied the equal protection of the laws as provided by Section 1 of Fourteen Amendment to the U.S. Constitution?

2. Whether forbidding petitioner Alicja Matczak by police officer to take photographs of criminal acts being committed under police officers supervision constitutes abridging the freedom of speech, and of the press as provided by the First and Fourteen Amendment to the U.S. Constitution?

3. Whether keeping firearm in assault and ambush situation to protect lives, bodily integrity, home and agriculture business under construction and to terminate and prevent forcible felony as prescribed by State of Florida Constitution and Statutes, constitutes criminal offence under Second and Fourteen Amendment to the U.S. Constitution?

4. Whether warrantless, fruitless and unreasonable search and seizure of petitioner Alicja Matczak just because she entered her own home and agriculture business under construction violated Fourth and Fourteen Amendment to the U.S. Constitution?

5. Whether warrantless, fruitless and unreasonable search and seizure of petitioner Tadeusz Bohdziun while burglarizing and aiding felony teft and trespassing on construction site violated Fourth and Fourteen Amendment to the U.S. Constitution?

6. Whether produced some hours later and after unreasonable search and seizure, several times corruptly false, hand written and unreadable "Arrest Affidavit" violates the Fourth, Sixth and Fourteen Amendment to the U.S. Constitution?

7. Whether reversing by force, terminated attempted willful and hostile felony trespass, constitutes deprivation of real estate property without due process of law as provided by the Fifth and Fourteen Amendment to the U.S. Constitution?

8. Whether continuos use of petitioners private apron and part of the property, authorized by Lake County, police officers and prosecutor, constitutes taking of private real estate property for public use, without just compensation as provided by the Fifth and Fourteen Amendment to the U.S. Constitution?

9. Whether taking 5 acres without just compensation by maintaining for over 38 years false records, constitutes deprivation of real estate property and taking private real estate property for public use without just compensation as provided by the Fifth and Fourteen Amendment to the U.S. Constitution?

10. Whether denying continuously any and all use of the real estate property and continuously refusing to issue Building Permit and causing

Agriculture Business, self employment and income loses more than $600000 and mounting, constitutes deprivation and taking of private real estate property without just compensation as provided by the Fifth and Fourteen Amendment to the U.S. Constitution?

11. Whether malicious prosecution based on several times corruptly false and without any cause "arrest affidavit" and "intend to prosecute" of felony trespasser, for preventing and terminating assault, ambush and felony trespass violates Fourth, Fifth, Ninth and Fourteen Amendment to the U.S. Constitution?

12. Whether U.S. District Courts', Middle District Of Florida, Ocala Division Order Dismissing Complaint violated requested by both parties right to trial by jury as provided by the Seventh Amendment to the U.S. Constitution and deprived petitioners of "the equal protection of the laws." as provided by the Fourteen Amendment to the U.S. Constitution?

13. Whether Ninth and Fourteen Amendment to the U.S. Constitution provides guarantees against malicious prosecution and violations of Human Rights as provided by UN Universal Declaration of Human Rights?

14. Whether Ninth and Fourteen Amendment to the U.S. Constitution provides guarantees against malicious prosecution and violations of Human Rights as provided by American Convention on Human Rights?

15. Whether arbitrarily converting rights into crimes and crimes into rights by police officers and prosecutor without Legislative Due Process of Law violates Ninth and Fourteen Amendments to the U.S. Constitution?

PARTIES TO THE PROCEEDING

Alicja Matczak, Petitioner
Tadeusz Bohdziun, Petitioner

J.J. Dahl, Respondent
Rhonda H. Gerber, Respondent
William "Bill" H. Good, Respondent
Richard Swartz, Respondent
Catherine C. Hanson, Respondent
Welton G. Cadwell, Respondent
George Knupp, Jr., Respondent
Ken Adams, Respondent
John Guzman, Respondent

CORPORATE DISCLOSURE STATEMENT

There is no parent or publicly held company owning 10% or more of the corporation's stock.

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PETITION FOR A WRIT OF CERTIORARI

Petitioners, Alicja Matczak & Tadeusz Bohdziun respectfully pray that a writ of certiorari be issued to review the judgment of the United States Court Of Appeals For The Eleventh Circuit dismissing petitioners Appeal for lack of jurisdiction.

OPINIONS BELOW

The order of the United States Court of Appeals for the Eleventh Circuit dismissing appeal for lack of jurisdiction is not reported and is reprinted in the appendix to the Petition for Writ of Certiorari, Pet. App. 1-2.The order of the United States District Court, Middle District Of Florida, Ocala Division dismissing petitioners original Complaint for failure to state a claim is not yet reported and is reprinted in the appendix to the Petition for Writ of Certiorari, Pet. App. 2-10. The three subsequent orders of the United States District Court, Middle District Of Florida, Ocala Division denying New Trial are not yet reported and are reprinted in the Appendix to the Petition for Writ of Certiorari, Pet. App. 10-14.

JURISDICTION

The order of the United States Court of Appeals for the Eleventh Circuit dismissing appeal for lack of jurisdiction was entered on December 19, 2000. Pet. App. 1-2.

Petitioners invoke this Court's jurisdiction under 28 U.S.C. § 1254(1) and 28 U.S.C. § 1257(a) that in pertinent part provides that this Court may exercise certiorari jurisdiction "[o]r where any title,

right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States."

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

This case puts in issue several Amendments to the United States Constitution, which provide as follows:

The First Amendment to the Constitution of the United States provides, in pertinent part, that: "Congress shall make no law ... abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances".

The Second Amendment to the Constitution of the United States provides, in pertinent part, that: "the right of the people to keep and bear Arms, shall not be infringed."

The Fourth Amendment to the Constitution of the United States provides that: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

The Fifth Amendment to the Constitution of the United States provides that: " No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval

forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

The Seventh Amendment to the Constitution of the United States provides that: " In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, then according to the rules of the common law."

The Ninth Amendment to the Constitution of the United States provides that: "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people"

The Fourteen Amendment to the Constitution of the United States, Section 1 provides that "All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

Pursuant to this Court's Rule 14.1(f), the pertinent provisions of Article 1 through Article 12 and Article 17 of United Nations Universal Declaration of Human Rights adopted by United States on December 10, 1948 are reprinted in Pet. App. 30-32. The pertinent provisions of Article 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 18, 21, 24, and Article 25 of The American Convention on Human Rights of The Charter of the Organization of American States signed and ratified by United States on June 15, 1951 are reprinted in Pet. App. 24-30. The pertinent provisions of 28 U.S.C. §§ 1254(1), 1257(a), 1291, 1292, 2072 and 42 U.S.C. §§ 1981, 1982, 1983, 1985, and 18 U.S.C. §§ 241, 242 are reprinted in Pet. App. 14-23. The pertinent provisions of Rule 38(a), 54(a) and 55 Federal Rules of Civil Procedure are reprinted in Pet. App. 23-24. The pertinent provisions of Section 2, 4, 5, 8, 9, 12, 21, 22 and Section 23 of State of Florida Constitution are reprinted in Pet. App. 33-35. The pertinent provisions of State of Florida Statutes, Sections 790.25, 776.012, 776.031, 776.08, 810.09, 812.012, 812.014, 839.25 are reprinted in Pet. App. 35-48.

STATEMENT OF THE CASE

On December 23,1997 petitioners finalized real estate transaction on 14,2 acre residential vacant lot zoned agriculture, located on County Road 474 in rural Lake County in Florida, with the owner Jean Nicchiarico residing at 29 Chalburn Rd, West Redding, State of Connecticut. Jean Nicchiarico owned the property for over 25 years. *See Exhibit 2.* Century 21 Realty Services, Inc. of Clermont, Florida offered property for sale and Clermont attorney handled closing at Law Office of Mr.Leonard H. Baird, JR. Owner Jean Nicchiarico attended closing by mail and was represented by two Century 21 Realty Services,

Inc. associates, Melba McDonald and Nancy J. Cini. Petitioners bought the property subject to intrusion, hostile trespass and possibly attempted adverse possession or hijacking. *See Exhibit 1-37.*

There is public easement approximately 36739 square feet or 0.84 acre dedicated to Lake County for County Road 474.*See Exhibit 5.* This is recorded right-of-way and Lake County holds good and valid deed to the easement. There is also private apron from the paved County Road 474 to the property over the ditch that runs parallel to the paved County Road 474. Frontage of the property is fenced and there is a gate at the apron. Property was sold "as is" with the fence and the gate. The fence and the gate are located on Lake County owned property, specifically on the land constituting the dedicated easement or right of way. *See Exhibit 12.* The deed was recorded December 30,1997 at 8.34am.*See Exhibit 1.* Notice of Possession was given by recording the deed. On December 23,1997 after closing petitioner, Tadeusz Bohdziun went from City of Clermont where the closing took place to the property to inspect it. However petitioner, Tadeusz Bohdziun could not enter his property, because somebody placed metal chain and padlocks on the gate and lock petitioners out of their own property. *See Exhibit 32, 33.* One of individuals, who lock out petitioners out of their own property is Mark Chodos residing at 10411 C.R. 474,Clermont, FL.34711. Mark Chodos also placed his mailbox in front of petitioners apron within public easement. Post Office delivers mail to this mailbox to Mark Chodos. Mark Chodos' official mailing address is assign to his 5-acre lot No. 28 which fronts 660 feet on paved County Road 474 and is located to the east of petitioners property. However there is no apron over the ditch to his property because he prefers to intrude and trespass on petitioners property. *See Exhibit 7, 37.*

There are also several other lots in this area, which appear to be land locked but they are not, because there is legal easement which starts and runs on property line of lot No. 27 and most likely takes care of everybody in the back. What it takes is to clear it and to build the apron.

Petitioner, Tadeusz Bohdziun called Mark Chodos over the phone and informed him that he is new owner of the property and asked Mark Chodos for the key to the padlock. Mark Chodos refused to provide the key, and stated that he does not care what petitioner, Tadeusz Bohdziun bought if anything. Mark Chodos stated that the place where the apron and the gate are located is separate lot own by Lake County. Mark Chodos stated that he is authorized by Lake County to care for this property. Mark Chodos cited Official Assessment Maps of Lake County where the apron area of petitioners property is shown as 2.5-acre lot No. 24 and is shown as separate property.

Petitioner, Tadeusz Bohdziun advised Mark Chodos that the map is incorrect and requested that Mark Chodos removes his chain and his padlock from the gate and remove his mail box from the front of the gate. Mark Chodos refused and stated that he and individual named Darrell are very good with guns and petitioner may get shot, if petitioner, Tadeusz Bohdziun attempts to enter petitioners own property. Petitioner, Alicja Matczak witnessed the conversation, however conversation was not taped, because petitioners did not expect to receive death threats or any other threats at all. Mark Chodos also made some other threats directed rather at the property, which were recorded by petitioners telephone answering machine and are available for the review. Petitioner, Tadeusz Bohdziun made several attempts to inspect and enter his Home and Agriculture Business but could not enter for over 45 days because hostile

trespassers and hijackers would not remove padlocks and chain from the gate. He also sent several complaint-inquiry letters to various Lake County Departments, complained in person and in writing but achieved nothing. *See Record Excerpts 1.*

On December 30,1997 petitioner, Tadeusz Bohdziun applied for Building Permit to install mobile home and to start agriculture business. Lake County Zoning Department approved petitioners Plot Plan and Lake County Health Department charged petitioners $250 for Septic Tank Permit what placed the property under "Construction site" status. *See Exhibit 9, 10.* Petitioner, Tadeusz Bohdziun purchased in the retail store registered firearm, like any other person in State of Florida just in case that the death threats become reality. Petitioners also purchased building material and "No Trespassing" signs to fence the property and to terminate trespass. On February 07, 1998, petitioners went to the property to inspect it for the first time and to fence it. Upon arrival at the property in the morning, petitioners installed two "No Trespassing" signs on the posts of the gate and then petitioner Tadeusz Bohdziun cut the chain with electric drill in order to enter petitioners own Home and Agriculture Business. *See Exhibit 12, 13, 17.* Petitioners constructed approximately 150-200 feet or more of single line barbed wire fence and installed third "No Trespassing" sign across visible trespassing path. *See Exhibit 14, 21, 30, 31.*

First intruder who came to trespass on petitioners property ignoring "No Trespassing" signs was a woman named Trilby Burket residing at 4710 Nantucket Lane, Orlando, FL 32808. *See Exhibit16,17, 22, 23, 29.* She left because the newly installed fence prevented her from going on others people property, but like become clear later, she did not call police but rather went to mobilize other intruders to assault and

ambush petitioners. Approximately 30 minutes later petitioners were ambush and assaulted by Darrell Judy and other intruders and trespassers who came with clear intention to inflict bodily harm on petitioners. *See Exhibit 18, 19, 20.* Darrell Judy was enraged and was verbally assaulting petitioners, because he did not like the fact that petitioners entered and were fencing their own property. Petitioner, Tadeusz Bohdziun advised Darrell Judy several times, to leave the property and when he refused and was still raging at petitioners it became necessary to defend lives, bodily integrity and to terminate trespass upon "Construction Site" of Home and Agriculture Business with support of keeping firearm in accordance with State of Florida Constitution and Laws. It was the firearm that saved and protected petitioners from being beaten up or killed in remote wooded area.

Darrell Judy stopped raging and went back to his truck, turn around and left through the front gate and headed westbound on Country Road 474. He pulled to the shoulder and stopped his truck by the bushes little west of the gate where the other assailants were hiding in ambush, got out of his truck, pulled his firearm and fired it once from public road in what petitioners believe was petitioners direction. Subsequently Darrell Judy got back to his track and fled westbound on Country Road 474 probably picking up other assailants. Petitioners were not hit by the fired round and took cover behind their van. After a while petitioners picked up tools and locked their own Home And Agriculture Business under construction with their own chain and numeric padlock and went to nearest gas station 6 miles away to call police and report intrusion and assault. *See Exhibit 34.* After calling 911 petitioners met with unidentified Lake

County Sheriff Department officer at the gas station who directed petitioners to go back to the property but would not go with petitioners, simply sending them into another ambush. Petitioners drove back to the property and upon arrival find that the chain on the gate was cut and laying on the ground and the two " No Trespassing" and "Posted" signs were torn down and stolen. There were three Lake County Sheriff Department officers with Mark Chodos and Trilby Burket jointly trespassing and burglarizing petitioners Home and Agriculture Business under construction. Without one word of explanation, what they are doing in petitioners Home and Agriculture Business under construction with intruders and trespassers, petitioners were searched and seized and the van was searched too. Fruitless search produced petitioner Tadeusz Bohdziun registered firearm that is normal safety equipment in every second home and place of business in State of Florida and which was where it should be, at petitioners Home and Agriculture Business. Furthermore the registered firearm was available for any inspection all the time and there was no any need to search for it. The three Lake County Sheriff Department officers removed from petitioners van the chain with interlocking padlocks and returned it to trespassers just like that and disposed of evidence of attempted adverse possession or hijacking.
The intruders and trespassers decided to call on the telephone Darrell Judy to come back to petitioners Home and Agriculture Business under construction to trespass and while trespassing to fill out "Intend to prosecute" form. *See Exhibit 22, 23, 24, 25.* The trespassers while waiting for Darrell Judy started to demolish and steal newly installed fence and third "No trespassing" sign under strict Lake County Sheriff Department officers' supervision. *See Exhibit 30,31.*

While demolition and stealing of the fence was underway, Lake County Sherrif Department officers released petitioner, Alicja Matczak from imprisonment in police squad car. They were asking several times, what nationality petitioners are. Petitioner, Alicja Matczak informed the officers that petitioners are from Poland. After questioning petitioner, Alicja Matczak about petitioners national origin the three respondents, Lake County Sherrif Department officers told petitioner, Alicja Matczak that petitioners do not own the property and are not allowed to fence it. Petitioner, Alicja Matczak presented respondent, John Guzman with the copy of the Recorded Deed and copy of Lake County approved development Plot Plan. The three respondents, Lake County Sherrif Department officers examined the documents and told petitioner, Alicja Matczak that they can not read the deed and Plot Plan.

Darrell Judy arrived back approximately 20 to 30 minutes later in different cloths and in different truck without his firearm with some boy. With a lot of help Darrell Judy attempted to write something, which supposed to be complaint against petitioner, Tadeusz Bohdziun. Respondent, John Guzman, converted this attempted writing to a criminal offence of Aggravated Assault with a Deadly Weapon. Deputy John Guzman came back to his squad car and told Petitioner, Tadeusz Bohdziun that Petitioner, Tadeusz Bohdziun is arrested and read petitioner, Tadeusz Bohdziun his rights. Subsequently respondent, John Guzman drove petitioner, Tadeusz Bohdziun to Lake County Jail where petitioner, Tadeusz Bohdziun was booked for Aggravated Assault with Deadly Weapon charges. Petitioner, Alicja Matczak took the photo camera and started taking pictures but she was able to take a few only because respondent, John Guzman strictly forbidden her to take any pictures. Petitioner, Alicja

Matczak was ordered by the respondent, John Guzman to leave the property and go back to rented apartment, while the armed real estate property hijackers were continuing with demolition and stealing of the fence.

On March 23,1998 Petitioner, Tadeusz Bohdziun has been charged with Aggravated Assault with Deadly Weapon charge by Assistant State Attorney J.J. Dahl. Case Number 98-265-CF-A-JL. Assistant State Attorney J.J. Dahl filed the charges in the Fifth Judicial Circuit of the State of Florida against petitioner, Tadeusz Bohdziun under false name of Tadeusz Bohdzium and false social security number of 319762531. Petitioner's, Tadeusz Bohdziun Social Security Number is 319-76-2523.
On July 20, 1998 petitioner, Tadeusz Bohdziun was scheduled to appear before the judge. Ten minutes before appearing before the judge, petitioner, Tadeusz Bohdziun was presented with second PLEA WAIVER AND CONSENT and was coerced to plead guilty to a charge of Improper Exhibition of Firearm, Section 790.10 Florida Statutes. Petitioner, Tadeusz Bohdziun was coerced to plead guilty due to the fact that petitioner, Tadeusz Bohdziun acts do not constitute any illegal or criminal act at all under State of Florida Constitution and laws and under United States Constitution. Petitioner, Tadeusz Bohdziun sentence reads a follows:

A. ADJUDICATION: The Court will adjudicate me guilty.

B. SENTENCE: I will be placed on Supervised Probation for a period of one (1) year; I will forfeit my gun:
I will attend and complete a gun safety class; I will have no victim contact; and I will pay $150.00 in fines

and court costs. The State will dismiss the Aggravated Assault with a Deadly Weapon charge.

1) PROGRAM PARTICIPATION: I will attend and complete a gun safety class as stated in section "B" above.
C. FINES AND COSTS: I will pay $150.00 in fines and court costs as stated in section "B" above.

Petitioner, Tadeusz Bohdziun served the sentence and complied with every requirement and condition of the sentence.

The main issue in this case is grave violation of basic Constitutional and Human Rights and taking of substantial real estate property and depravation of all uses of property and enormous depravation and loss of self employment and income.

ARGUMENT

This case is a petition to the Government for a redress of grievances specifically outlined in the Constitutional questions presented for review and discussed in greater detail below in this petition.

This Court's review of the order of the United States Court of Appeals for the Eleventh Circuit dismissing appeal for lack of jurisdiction is warranted because it refused to decide an important question of federal law that has not been, but should be, settled by this Court and "decided an important federal question in a way that conflicts with relevant decisions of this Court." Sup. Ct. R. 10(c). When the United States District Court, Middle District Of Florida, Ocala Division dismissed original Complaint filed pursuant to 28 U.S.C. §§ 1331, 1343, for failure to

state a claim without leave to amend, petitioners did not consider it "final" decision because it violated Seventh Amendment right to trial by jury requested by both parties. *See* Rule 38(a) Fed. R. Civ. P., Pet. App. 24.

This Court clarify this right in *Curtis v. Loether,* 415 U.S. 189 (1974) and said: ["W] hat ever doubt may have existed should now be dispelled. The Seventh Amendment does apply to actions enforcing statutory rights, and requires a jury trial upon demand, if the statute creates legal rights and remedies, enforceable in an action for damages in the ordinary courts of law." In doing so petitioners relied on this Court statement in *Catlin v. U.S.,* 324 U.S. 229 (1945) where this Court said that: [A] 'final decision' generally is one which ends the litigation on the merits and leaves nothing for the court to do but execute the judgment." and on 28 U.S.C. §§ 1291, 1292(a)(1), 2072 that provide jurisdiction for appeals from practically any District Court order as does Rule 54(a) Fed. R. Civ. P. and Article 8 of American Convention on Human Rights. This Court reaffirmed this principle in *Cohen v. Beneficial Indus. Loan Corp.,* 337 U.S. 541 (1949) and in *Thompson v. I.N.S.,* 375 U.S. 384 (1964).

Petitioners filed "Motion to Determine Appealability of the Last Order Filed and Entered in the District Court on May 16, 2000," but the U. S. Court of Appeals for the Eleventh Circuit avoided the question and denied the motion, which if granted would show Appeals Court jurisdiction pursuant to 28 U.S.C. §1291 or §1292(a)(1). Petitioners believe that they were entitled to Judiciary created "exception appeal" like anybody else pursuant to "the equal protection of the laws." clause of Fourteen Amendment to the U.S. Constitution.

The United States District Court, Middle District Of Florida, Ocala Division also deprived petitioners of "Judgment by default" as provided by Rule 55(a),(b)(1) Fed. R. Civ. P., and "the equal protection of the laws" clause of Fourteen Amendment to the U.S. Constitution.

Whether forbidding petitioner Alicja Matczak by police officer to take photographs constitutes abridging the freedom of speech, and of the press, is best answered in this Court opinion in *Thornhill v. State of Alabama*, 310 U.S. 88 (1940) where this Court said:

"The freedom of speech and of the press, which are secured by the First Amendment against abridgment by the United States, are among the fundamental personal rights and liberties which are secured to all persons by the Fourteenth Amendment against abridgment by a state. 7"[1] and reaffirmed it over and over again in to many cases to quote. If the rights enumerated in the First Amendment are secured against abridgment by the United States, then it is obvious that any other Amendments are secured against abridgement by the United States as well pursuant to the "equal protection of the laws" clause of the Fourteen Amendment.

Whether warrantless, fruitless and unreasonable search and seizure of petitioners just because they entered their own home and agriculture

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[1] [Footnote 7] Schneider v. State, 308 U.S. 147, 160 , 60 S.Ct. 146, 150; Lovell v. Griffin, 303 U.S. 444, 450 , 58 S.Ct. 666, 668; De Jonge v. Oregon, 299 U.S. 353 , 57 S.Ct. 255; Grosjean v. American Press Co., 297 U.S. 233, 244 , 56 S.Ct. 444, 446; Near v. Minnesota, 283 U.S. 697, 707 , 51 S.Ct. 625, 627; Stromberg v. California, 283 U.S. 359, 368 , 51 S.Ct. 532, 535, 73 A.L.R. 1484; Gitlow v. New York, 268 U.S. 652, 666 , 45 S.Ct. 625, 629. See Palko v. Connecticut, 302 U.S. 319, 326 , 327 S., 58 S. Ct. 149, 152.

business under construction violated Fourth and Fourteen Amendment to the U.S. Constitution is best answered by this Court *in Monroe v. Pape,* 365 U.S. 167 (1961) *and Bivens v. Six Unknown Fed. Narcotics Agents*, 403 U.S. 388 (1971) where this Court held police and federal agents liable for violating provisions of U.S. Constitution. The "probable cause" clause of Fourth Amendment still requires police officers to obtain search Warrant before they can search as this Court held: "in Byars v. United States, 273 U.S. 28 (1927), the petitioner was convicted on the basis of evidence seized under a warrant issued, without probable cause under the Fourth Amendment, by a state court judge for a state law offense." and in *Gambino v. United States,* 275 U.S. 310 (1927), and reversed petitioners' convictions as having been based upon evidence obtained through an unconstitutional search and seizure, and in *Bond v. United States, 000 U.S. 98-9349 (2000)* reversed drug case because of illegal search. Furthermore this Court not only reversed convictions but clearly stated that: "Of course, the Fourth Amendment does not in so many words provide for its enforcement by an award of money damages for the consequences of its violation. but "it is . . . well settled that where legal rights have been invaded, and a federal statute provides for a general right to sue for such invasion, federal courts may use any available remedy to make good the wrong done." Bell v. Hood, 327 U.S., at 684 (footnote omitted)." As far as illegal seizure goes, petitioners are relying on this Courts' definition of illegal seizure in *Brower v. Inyo County*, 489 U.S. 593 (1989) where this Court Held: ["1.] Consistent with the language, history, and judicial construction of the Fourth Amendment, a seizure occurs when governmental termination of a person's movement is effected through means intentionally applied". Lake County Sheriff officers not

only illegally and intentionally seized petitioners, but deprived them of their rights to be secure in their persons, houses, papers, and effects, while aiding malicious and extremely hostile thieves and trespassers.

The Fifth Amendment to the Constitution of the United States provides in pertinent part that: "nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation." Respondents already deprived petitioners of substantial real estate property and other fundamental Constitutional and Human rights closely associated and related to real estate property rights. Respondents and trespassers converted trespassing path into illegal easement or right of way without due process of law but excluded and deprived petitioners of a right to enter their own home and agriculture business for over 45 days and this Court addressed the issue in *Griffin v. Breckenridge,* 403 U.S. 88 (1971) and held violators liable under 42 U.S.C. §1985(3).

This Court in *Adderley v. Florida,* 385 U.S. 39 (1966) clearly upheld basic property "right to exclude", which if violated constitutes criminal trespass and upheld 107 convictions of trespass allowing the armed owner to use criminal law to protect his property. Additionally this Court clearly recognized " right to exclude" as a property right which cannot be taken without compensation. In *Kaiser Aetna v. United States*, 444 U.S. 164 (1979) this Court said: "In this case, we hold that the "right to exclude," so universally held to be a fundamental element of [444 U.S. 164, 180] the property right, 11 falls within this category of

interests that the Government cannot take without compensation."[2] In petitioners case, respondents not only continuously denying petitioners "right to exclude" but prosecuted them for exercising it and used trespassers to prosecute petitioners while trespassing. This is obvious violation of Fifth and Fourteen Amendments to the U.S. Constitution. Furthermore, respondents attempted to convert trespassing path into illegal easement, but again this Court in *Kaiser Aetna v. United States*, 444 U.S. 164 (1979) said: " And even if the Government physically invades only an easement in property, it must nonetheless pay just compensation. See United States v. Causby, 328 U.S. 256, 265 (1946); Portsmouth Co. v. United States, 260 U.S. 327 (1922)." Petitioners believe that the "right to exclude" includes use of private apron for entrance purpose and does not include sidewalk part not relevant in this case, because there is no sidewalk in this case. Apron is private because is sold with the property and in some point in time, one of property owners in chain of title was required to pay for permit and construction.

Whether continuos refusal for over 3 years and mounting to issue or deny building permit for petitioners home and agriculture business and denying any and all use of petitioners real estate property, constitutes regulatory taking is best answered by this Court in *First Lutheran Church v. Los Angeles County*, 482 U.S. 304 (1987) where the Court Held: "[2]. Under the Just Compensation Clause,

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[2] [Footnote 11] See, e. g., United States v. Pueblo of San Ildefonso, 206 Ct. Cl. 649, 669-670, 513 F.2d 1383, 1394 (1975); United States v. Lutz, 295 F.2d 736, 740 (CA5 1961). As stated by Mr. Justice Brandeis, "[a]n essential element of individual property is the legal right to exclude others from enjoying it." International News Service v. Associated Press, 248 U.S. 215, 250 (1918) (dissenting opinion).

where the government has "taken" property by a land-use regulation, the landowner may recover damages for the time before it is finally determined that the regulation constitutes a "taking" of his property. The Clause is designed not to limit the governmental interference with property rights per se, but rather to secure compensation in the event of otherwise proper interference amounting to a taking. A landowner is entitled to bring an action in inverse condemnation as a result of the self-executing character of the constitutional provision with respect to compensation. While the typical taking occurs when the government acts to condemn property in the exercise of its power of eminent domain, the doctrine of inverse condemnation is predicated on the proposition that a taking may occur without such formal proceedings. "Temporary" regulatory takings which, as here, deny a landowner all use of his property, are not different in kind from permanent takings for which the Constitution clearly requires compensation. Once a court determines that a taking has occurred, the government retains the whole range of options already available - amendment of the regulation, withdrawal of the invalidated regulation, or exercise of eminent domain. But where the government's activities have already worked a taking of all use of property, no subsequent action by the government can relieve it of the duty to provide compensation for the period during which the taking was effective. Invalidation of the ordinance without payment of fair value for the use of the property during such period would be a constitutionally insufficient remedy. Pp. 314-322."
In *Lucas v. South Carolina Coastal Council,*
505 U. S. 1003, (1992) this Court provided definition for regulatory taking going too far and said:

"In 70-odd years of succeeding "regulatory takings" jurisprudence, we have generally eschewed

any "`set formula'" for determining how far is too far, preferring to "engag[e] in . . . essentially ad hoc, factual inquiries." Penn Central Transportation Co. v. New York City, 438 U.S. 104, 124 (1978) (quoting Goldblatt v. Hempstead, 369 U.S. 590, 594 (1962)). See Epstein, Takings: Descent and Resurrection, 1987 S.Ct. Rev. 1, 4. We have, however, described at least two discrete categories of regulatory action as compensable without case-specific inquiry into the public interest advanced in support of the restraint. The first encompasses regulations that compel the property owner to suffer a physical "invasion" of his property. In general (at least with regard to permanent invasions), no matter how minute the intrusion, and no matter how weighty the public purpose behind it, we have required compensation. For example, in Loretto v. Teleprompter Manhattan CATV Corp., 458 U.S. 419 (1982), we determined that New York's law requiring landlords to allow television cable companies to emplace cable facilities in their apartment buildings constituted a taking, id., at 435-440, even though the facilities occupied, at most, only 1 1/2 cubic feet of the landlords' property, see id., at 438, n. 16. See also United States v. Causby, 328 U.S. 256, 265 , and n. 10 (1946) (physical invasions of airspace); cf. Kaiser Aetna v. United States, 444 U.S. 164 (1979) (imposition of navigational servitude upon private marina). The second situation in which we have found categorical treatment appropriate is where regulation denies all economically beneficial or productive use of land. See Agins, 447 U.S., at 260 ; see also Nollan v. California Coastal Comm'n, 483 U.S. 825, 834 (1987); Keystone Bituminous Coal Assn. v. DeBenedictis, 480 U.S. 470, 495 (1987); Hodel v. Virginia Surface Mining & Reclamation Assn., Inc., 452 [505 U.S. 1003, 1016] U.S. 264, 295-296 (1981). 6 As we have said on numerous occasions, the Fifth Amendment is violated

when land use regulation "does not substantially advance legitimate state interests or denies an owner economically viable use of his land." Agins, supra, at 260 (citations omitted) (emphasis added)."
Petitioners in this case are suffering both categories of regulatory taking, which are permanent physical invasions and depravation of all economically beneficial and productive use of land. Petitioner Tadeusz Bohdziun did not consider plain hostile trespass as taking and terminated it, but respondents jointly with trespassers assaulted him and ambushed him and prosecuted him, so right know, nothing left but to execute "inverse condemnation" as described by this Court in *United States v. Clarke*, 445 U.S. 253 (1980) where this Court said: "To accomplish a taking by seizure, on the other hand, a condemning authority need only occupy the land in question. Such a taking thus shifts to the landowner the burden to discover the encroachment and to take affirmative action to recover just compensation."

The respondents do not state any reason, law or regulation on which they base their decision to deny any and all uses of petitioners real estate property and directly causing great agriculture business and self employment loses more then $600000 and mounting.

Whether malicious prosecution based on several times corruptly false and without any cause "arrest affidavit" and "intend to prosecute" of felony trespasser, for preventing and terminating assault, ambush and felony trespass violates Fourth, Fifth, Ninth and Fourteen Amendment to the U.S. Constitution?
In *Scheuer v. Rhodes*, 416 U.S. 232 (1974) this Court said: " However, since Ex parte Young, 209 U.S. 123

(1908), it has been settled that the Eleventh Amendment provides no shield for a state official confronted by a claim that he had deprived another of a federal right under the color of state law. Ex parte Young teaches that when a state officer acts under a state law in a manner violative of the Federal Constitution, he "comes into conflict with the superior authority of that Constitution, and he is in that case stripped of his official or representative character and is subjected in his person to the consequences of his individual conduct. The State has no power to impart to him any immunity from responsibility to the supreme authority of the United States." Id., at 159-160. (Emphasis supplied.)."

Whether Ninth and Fourteen Amendment to the U.S. Constitution provides guarantees against violations of Human Rights as provided by UN Universal Declaration of Human Rights and American Convention on Human Rights is rather obvious because the rights are not enumerated but are "others retained by the people" and because United States of America signed and ratified Charter of the Organization of American States and its American Convention on Human Rights on June 15, 1951.
In the light of above this Court in *Owen v. City of Independence*, 445 U.S. 622 (1980) held:

" A municipality has no immunity from liability under 1983 flowing from its constitutional violations and may not assert the good faith of its officers as a defense to such liability. Pp. 635-658.
(a) By its terms, 1983 "creates a species of tort liability that on its face admits of no immunities." Imbler v. Pachtman, 424 U.S. 409, 417 . Its language is absolute and unqualified, and no mention is made of any privileges, immunities, or defenses that may be asserted. Rather, the statute imposes liability upon "every person" (held in Monell v. New York City Dept.

of Social Services, 436 U.S. 658 , to encompass municipal corporations) who, under color of state law or custom, "subjects, or causes to be subjected, any citizen of the United States . . . to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws." And this expansive sweep of 1983's language is confirmed by its legislative history. Pp. 635-636. [445 U.S. 622, 623]". In this case this Court also inquired into intentions of legislature and said: " Moreover, the congressional debates surrounding the passage of 1 of the Civil Rights Act of 1871, 17 Stat. 13 - the forerunner of 1983 - confirm the expansive sweep of the statutory [445 U.S. 622, 636] language. Representative Shellabarger, the author and manager of the bill in the House, explained in his introductory remarks the breadth of construction that the Act was to receive:

"I have a single remark to make in regard to the rule of interpretation of those provisions of the Constitution under which all the sections of the bill are framed. This act is remedial, and in aid of the preservation of human liberty and human rights. All statutes and constitutional provisions authorizing such statutes are liberally and beneficently construed. It would be most strange and, in civilized law, monstrous were this not the rule of interpretation. As has been again and again decided by your own Supreme Court of the United States, and everywhere else where there is wise judicial interpretation, the largest latitude consistent with the words employed is uniformly given in construing such statutes and constitutional provisions as are meant to protect and defend and give remedies for their wrongs to all the people." Cong. Globe, 42d Cong., 1st Sess., App. 68 (1871) (hereinafter Globe App.). "

Whether converting rights into crimes and crimes into rights by police officers and prosecutor

without Legislative Due Process of Law violates Section 1 of Fourteen Amendments to the U.S. Constitution is best answered by this Court in *Allgeyer v. State of Louisiana,* 165 U.S. 578 (1897) where this Court said: "The liberty mentioned in that [Fourteenth] Amendment means not only the right of the citizen to be free from the mere physical restraint of his person, as by incarceration, but the term is deemed to embrace the right of the citizen to be free in the enjoyment of all his faculties, to be free to use them in all lawful ways; to live and work where he will; to earn his livelihood by any lawful calling; to pursue any livelihood or avocation, and for that purpose to enter into all contracts which may be proper, necessary and essential to his carrying out to a successful conclusion the purposes above mentioned."

The Ninth and Fourteen Amendment to the U.S. Constitution provides specific guarantees against malicious prosecution based on violation of Human and Constitutional Rights and when malicious prosecution was initiated against petitioner, then it left nothing to do but to plead guilty out of fear of malicious prosecution and to minimize punishment. This Court in *Marshal v. Lonberger*, 459 U.S. 422 (1983) said: "It is well established that a plea of guilty cannot be voluntary in the sense that it constitutes an intelligent admission that the accused committed the offense unless the accused has received "real notice of the true nature of the charge against him, the first and most universally recognized requirement of due process.' Smith v. O'Grady, 312 U.S. 329, 334 (1941), quoted in Henderson v. Morgan, 426 U.S., at 645 '." Petitioners believe that it is legal to act according to clearly established laws and that makes petitioners immune from any malicious prosecution. Petitioners'. Tadeusz Bohdziun acts were clearly within scope of

below specified laws: Sections 790.25(1), (3), (4), and (5) Florida Statutes clearly provides for lawful use of firearm and in defense of life, home, and property. Section 812.012 (3) defines property as anything of value including real property. Sections 776.012 and 776.031 Florida Statutes clearly provides for lawful use of firearm in self-defense, defense of others and lawful use of firearm to terminate trespass on real estate property and to prevent forcible felony. Section 810.09 Florida Statutes even provides for lawful detention and custody of the armed trespasser for prosecution purposes. Section 2, Article I and Section 8, State of Florida Constitution provide undeniable rights to bear arms and to defend life and liberty and to possess and protect property. Second Amendment to the United States Constitution provides undeniable rights to keep and bear arms. The Ninth Amendment to the United States Constitution provides between others, undeniable Human Rights described in United Nations Universal Declaration of Human Rights adopted by United States on December 10, 1948 and in American Convention on Human Rights signed and ratified on June 15, 1951. Article 9 of American Convention on Human Rights reads as follows:

Article 9. Freedom from Ex Post Facto Laws

"No one shall be convicted of any act or omission that did not constitute a criminal offense, under the applicable law, at the time it was committed. A heavier penalty shall not be imposed than the one that was applicable at the time the criminal offense was committed. If subsequent to the commission of the offense the law provides for the imposition of a lighter punishment, the guilty person shall benefit therefrom"

Defending petitioners own lives, bodily integrity and homeland is not a crime but a duty and necessity.

The acts of police officers and prosecutor in this case may be best illustrated by hypothetical armed bank robbery of a bank located in wooded and remote area, where arriving police responding to bank tellers call for help, asks bank robbers to fill out "Intend to prosecute" form just because bank tellers happen to be immigrants and arrests them for aggravated assault on "innocent" bank robbers. Then the prosecutor takes over and portraits bank robbers as victims and witnesses and the robbery is irrelevant. It may be so, but the Legislature refers to this kind of action as "Conspiracy to deprive persons of rights" and addresses it in 42 U.S.C. §1983, §1985 and in 18 U.S.C. §§ 241, 242.

CONCLUSION

In *Cohens v. Virginia,* 19 U.S. 264 (1821) the Chief Justice Marshall said: "The Constitution gives the Supreme Court original jurisdiction in certain enumerated cases, and gives it appellate jurisdiction in all others. Among those in which jurisdiction must be exercised in the appellate [19 U.S. 264, 393] form, are cases arising under the Constitution and laws of the United States. These provisions of the Constitution are equally obligatory, and are to be equally respected." and where the Chief Justice also said:

"It is most true that this Court will not take jurisdiction if it should not; but it is equally true that it must take jurisdiction if it should. The judiciary cannot, as the legislature may, avoid a measure because it approaches the confines of the

Constitution. We cannot pass it by because it is doubtful. With whatever doubts, with whatever difficulties, a case may be attended, we must decide it if it be brought before us. We have no more right to decline the exercise of jurisdiction which is given than to usurp that which is not given. The one or the other would be treason to the Constitution. Questions may occur which we would gladly avoid, but we cannot avoid them. All we can do is to exercise our best judgment and conscientiously to perform our duty. In doing this on the present occasion, we find this tribunal invested with appellate jurisdiction in all cases arising under the Constitution and laws of the United States. We find no exception to this grant, and we cannot insert one."

The petition for a writ of certiorari should be granted.

Respectfully submitted.

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